

MINUTES

PUBLIC WORKS / PARKS & RECREATION COMMITTEE

April 19, 2017

A meeting of the Public Works / Parks & Recreation Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Ross Kagawa, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, April 19, 2017, at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun
Honorable Mason K. Chock
Honorable Arryl Kaneshiro
Honorable JoAnn A. Yukimura
Honorable Ross Kagawa
Honorable Derek S.K. Kawakami, Ex-Officio Member
Honorable Mel Rapozo, Ex-Officio Member

Minutes of the April 5, 2017 Public Works / Parks & Recreation Committee Meeting.

Upon motion duly made by Councilmember Kaneshiro, seconded by Councilmember Brun, and unanimously carried, the Minutes of the April 5, 2017 Public Works / Parks & Recreation Committee Meeting was approved.

The Committee proceeded on its agenda items as follows:

Bill No. 2612 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 14, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE PLUMBING CODE (**This item was Deferred to August 2, 2017.**)

Councilmember Brun moved to defer Bill No. 2612 to August 2, 2017, seconded by Councilmember Kaneshiro, and unanimously carried.

Committee Chair Kagawa: Next item, please.

Bill No. 2613 A BILL FOR AN ORDINANCE TO AMEND CHAPTER 13 OF THE KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE ELECTRICAL CODE (**This item was Deferred to August 2, 2017.**)

Committee Chair Kagawa: Before we have the motion, I would like to ask if there is anyone from the public who would like to speak on this. No one? Okay. The reason why we are deferring this item is that the Chair is recommending that we hold-off until another County...the City & County of Honolulu looks like they are going to be the first one to adopt the 2014 Electrical Code. From what I hear from the Buildings Division, the Governor will be signing

it this month and it will go into law for the State. I think it will be prudent for us to follow the other counties. This is a significant cost that would be required to upgrade to the 2014 Electrical Code, and I think there are questions about the efficiencies of upgrading from the 2008 to the 2014 Electrical Code. The Ground-Fault Circuit Interrupter (GFCI) requirements for appliances, et cetera; anything with a motor is going to hamper some of the efficiencies of appliances. Again, anything that runs with a motor will trip automatically, and I think we need to look at those concerns. I hope the City & County of Honolulu addresses those concerns as well before we upgrade. As it is now, if you want to opt for more safety, you can already do it. There is nothing that hampers you from upgrading to the 2014 Electrical Code if you are residential or commercial owner; you can elect to do it. We have heard stories where some people have elected to follow the 2014 Electrical Code, so you already can do it. We are not preventing anyone from upgrading to the 2014 Electrical Code. I think what we are merely doing is keeping a level playing field for the construction industry and making sure that our residents and commercial businesses are not hampered and shortchanged against the other counties. With that, any discussion? Councilmember Kawakami.

Councilmember Kawakami: Thank you, Chairman, for the deferral. I am very hesitant to just adopt new codes. I was on the Council when they proposed new building codes that would have significantly increased the cost of housing and the cost of living. When we vetted the discussion, what was found out was that some of it was completely unnecessary; some of it was being adopted from mainland states that have a different climate and different challenges. So I would appreciate getting more information on it. Just from your brief discussion, it raises some hesitancy for me to even adopt anything that will further raise the cost of housing. Thank you, Chairman.

Committee Chair Kagawa: Thank you for the discussion. Council Chair.

Council Chair Rapozo: Thank you. Obviously, the deferral is in order. When people start talking about changing codes—Councilmember Kawakami talked about a true life story in the past—for me, it is safety; safety needs to be driving these changes that are going to increase costs and increase the impracticality of some of these changes. When we are over here trying to fight for affordable housing, some of these changes will directly impact the cost. You have to ask yourself, “Where is the justification to change these codes? How many electrical fires have we had that have resulted in significant loss of life or property?” versus just accepting a code that I can honestly say that neither one of us read completely from front to back. We rely on our experts and our departments to advise us what they recommend, but at this point, unless I am shown some kind of nexus of why we have to change some of these things that are going to put a significant cost on the homeowner or the business, I am not ready to support it at this time.

Committee Chair Kagawa: Further discussion? Councilmember Yukimura.

Councilmember Yukimura: I just wondered if we can have an update from the Buildings Division.

Committee Chair Kagawa: Yes. I am going to suspend the rules. May I please get a motion to approve for discussion?

Councilmember Chock moved to approve Bill No. 2613, seconded by Councilmember Kaneshiro.

Committee Chair Kagawa: Thank you. The rules are suspended.

There being no objections, the rules were suspended.

LYLE TABATA, Acting County Engineer: Good morning Committee Chair Kagawa and Members of the Council. Lyle Tabata, Acting County Engineer. Just an update to the adoption, the State Building Code Council did adopt the 2014 National Electrical Code (NEC). On March 17th, the Governor signed the bill and it became effective ten (10) days later. The county agencies have two (2) years to adopt the same code. If they do not adopt it after two (2) years, it becomes State Administrative Rule and we have to follow it anyway. Since it has been adopted in its form by the State Building Code Council, we feel that it is prudent for us to follow suit. Committee Chair Kagawa is correct that a lot of the changes include the GFCI, which is the ground-fault circuit interrupter system that provides a lot more safety for the homeowners, especially electrical equipment in their homes that may become a shock threat to health and safety. We feel it is prudent to be adopted and we ask your consideration and allowing us to be the first county agency in the State to adopt. As we said earlier in previous presentations, the value of the increase would be between three hundred dollars (\$300) to five hundred dollars (\$500) per home.

Committee Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: So from the standpoint of those proposing the Bill, it is a safety issue?

Mr. Tabata: Exactly.

Councilmember Yukimura: Okay. As far as the State-level recommendation for approving the Bill, did it include industrial representatives?

Mr. Tabata: I will let Mr. Haigh, who sits on the council, answer that question.

DOUG HAIGH, Chief of Buildings: This specific ordinance request has support of the local electrical union, support of the National Fire Protection Safety Association, support of the Hawai'i Solar Energy System Association, and has support of the Kaua'i Contractor's Association. At the State-level, we at the State Building Code Council have a multi-disciplined group and multi-goals. The Building Industry Association (BIA) has members on the council.

Councilmember Yukimura: What is "BIA?"

Mr. Haigh: "Building Industry Association."

Councilmember Yukimura: Okay.

Mr. Haigh: We have the four (4) county building officials, architect representation, and structural engineer representation. In the meetings themselves, the National Fire Protection Association...we have the State fire chiefs...State fire...I forget what the organization is, but we have representation from the Hawai'i State fire organization. In our earlier presentation, we did have County Fire Department representation here, expressing the importance of staying current. You have to realize that especially electrical, there are a lot of technological changes that are occurring, so it is important that we adopt current codes so that we are responding to those latest technological changes. Are you going to buy a 2008 computer today? No, because if you bought a 2008 computer, it is not going to do what computers do. You are not going to buy a 2008 cell phone; you stay current. You notice that the Hawai'i Solar Energy Association also supports this because the code has really grown in addressing the solar industry and the technology that is involved in solar. It is very unfortunate that the other counties are not ready to move forward. Right now, Maui County is working on the electronic plan review adoption, which they figure it is going to take them two (2) years to do that, so they are not putting energy into any other code adoption at this point. The City & County of Honolulu has some real significant personnel issues in their staffing. They are trying to move the bill forward with their attorney's corporate counsel, and it is moving, but it is moving slow there. Hawai'i County has always been slow in adopting. We really encourage the Council to consider adopting this because we are on the 2008; this is 2017.

Councilmember Yukimura: Who were the first two (2) that endorsed it?

Mr. Haigh: The International Brotherhood of Electrical Workers (IBEW) Electrical Union, the National Fire Protection Association, Hawai'i Solar Energy Association, and the Contractors Association of Kaua'i.

Councilmember Yukimura: Okay. Who is opposing it?

Mr. Haigh: Excuse me?

Councilmember Yukimura: Is there anybody opposing it?

Mr. Haigh: At this point...

Committee Chair Kagawa: I am.

Mr. Haigh: Yes, there we go.

Committee Chair Kagawa: I am. My recommendation was to defer because I am waiting for the other counties to follow. If you want to argue that point, we can vote on it. If you want to follow the deferral, then let us just move on.

Councilmember Yukimura: I am just trying to understand the circumstances.

Committee Chair Kagawa: It is our job to adopt the code or not and I feel like we need to be more prudent and follow what the other counties do. Why would we make our County residents and contractors be subjected to a higher cost that other counties are not following? If it was such a "slam-dunk," why would the

other islands not put down their other pieces of work and adopt it? It is not a slam-dunk. It is not like buying a 2008 computer versus a 2016 computer. That is a bad analogy. If it was that “slam-dunkish,” it would have been done by all of the other counties. Unfortunately, it is not. The proof is in the pudding.

Councilmember Yukimura: I think if it is a matter of safety and it is not a major cost, we might want to consider taking leadership since we are elected leaders, but I still want to know more. So to your knowledge, Doug, there is no organized group that is related to doing electrical work on homes that is opposing it?

Mr. Haigh: That is correct. With the Administrative Rule process that goes at the State-level for adoption of a State Building Code, it goes through the State Administrative Rule process. So it goes through small business and through public hearings, and there was no opposition to the adoption of the 2014 National Electrical Code. The other counties are not making the decision because it is not important; they are making the decision because they have other administrative issues that they are overwhelmed with.

Councilmember Yukimura: Okay. Thank you.

Committee Chair Kagawa: Doug, if a business, such as a brand-new one, like 7-11 in Lāwāʻi, if they wanted to adopt the 2014 Electrical Code going forward as they rebuild, could they implement it?

Mr. Haigh: Typically, what we would do is if somebody wants to follow...

Committee Chair Kagawa: No, I am asking you, did the 7-11 there decide to follow the 2014 Electrical Code? Are you not sure?

Mr. Haigh: I am trying to answer.

Committee Chair Kagawa: It is a “yes” or “no.” Did they follow the 2014 Electrical Code voluntarily? They did. Did they encounter significant problems with their F’real machines and refrigeration and ended up switching back to the 2008 Electrical Code? Did that happen?

Mr. Haigh: I have no knowledge of that.

Committee Chair Kagawa: Well, I know, because I do research. They had significant problems. They had to switch back to the 2008 Electrical Code because their F’real machines and refrigeration were tripping and could not operate. There are significant problems that we need to iron out before we move forward.

Mr. Tabata: May I answer that?

Committee Chair Kagawa: Go ahead.

Mr. Tabata: That would be the issue between them and their designer. Their designer did not consider possibly all of the needs of what the equipment needed to do to match the safety protection equipment.

Committee Chair Kagawa: Lyle, what happened was that they tried to be safer, but it turned out to be inefficient.

Mr. Tabata: They need to take that up with their designer.

Committee Chair Kagawa: Let us do our due diligence before we just press the button and be first just because we think we should be the leaders in safety. We have to make sure that it is safe and efficient.

Mr. Haigh: This has been adopted on a national-level. We are looking at the 2014, not the 2017. The code has been vetted.

Committee Chair Kagawa: It has been vetted?

Mr. Haigh: It has been in effect since 2014, nationwide in various jurisdictions. If there were any significant issues with the code, they would have been brought up in the 2017. I do not know of any provisions in the 2017 Electrical Code that are overruling the safety provisions that were implemented in the 2014.

Committee Chair Kagawa: Doug, if it was vetted, like I said, and such a slam-dunk, why would the City & County of Honolulu with over one million (1,000,000) people, decide that this was just urgently needed for the safety and welfare of their one million (1,000,000) plus residents? You can do it voluntarily, right?

Mr. Haigh: The building official for the City & County of Honolulu is the one who wrote the language for the State Electrical Code because he knew the importance of it. But administratively, once you get beyond the level of a building official, administratively, other priorities are set. From the building official's perspective, who have expertise in these matters, it is important. Once you get into the administrative world of state and county government, sometimes that level of concern and importance do not continue on through the path.

Committee Chair Kagawa: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Chairman. Oftentimes, government has good intentions, but there are unintended consequences that come along. So in a real-world environment, say if there was a convenience store that had designed their store, put in the electrical work, and through time the store evolves and they are adding more refrigeration, more load onto their store, to the point where they are at capacity, would this upgrade cause them to have to go and invest more money to upgrade the whole system to accommodate this new upgrade to the code if they are at maximum capacity as it is, as our stores were?

Mr. Haigh: I do not know the details of what their electrical problem is. I would be very surprised if the Arc Fault Circuit

Interrupter (AFCI) breaker was one required for the refrigeration equipment and if it was causing the problem, if it was. If you are increasing your loads, regardless of what code you are on, you are going to have to have the electrical capacity to support those loads.

Councilmember Kawakami: In our situation, we had a store in which we had added so much equipment that when we wanted to add an additional piece of equipment, it started tripping things. So our electrician said that we can either upgrade or remove pieces of equipment, so we removed.

Mr. Haigh: Correct. So that is electrical load. If you are adding equipment, your current panel and breaker system is designed for a certain load.

Councilmember Kawakami: Mr. Haigh, I do not think we are seeing eye-to-eye on the point that I am trying to make.

Mr. Haigh: Okay, I am sorry.

Councilmember Kawakami: What I am trying to say is that I just want to keep things status quo in my store. I do not want to add more equipment or take out anymore equipment; it is working fine right now. It is at maximum capacity and I do not want to add anything on. I just want to operate my store and it is maxed-out. Now, with this new code coming in, is it going to cause me to have to now remove equipment or add more infrastructure?

Mr. Haigh: I hear your question. Our codes, when we adopt them, are not retroactive. So existing facilities that were built under the codes they were built under, there is nothing in our code that tells them they have to upgrade to the new code. The new code is for new work for either alterations or new buildings.

Councilmember Kawakami: So how does that solve the public safety issue? It is the older buildings that are the hazards, right? It is not the new stuff being built.

Mr. Haigh: The national code group has determined that we should be building our new homes with these new provisions to provide higher safety. We do have electrical fires on Kaua'i. We have had deaths from electrical fires on Kaua'i.

Councilmember Kawakami: On new construction?

Mr. Haigh: Well, it is the older construction. As far as which code was responsible for what, I cannot...I have not studied that. We do know that the AFCI breaker is going to do much better protection to avoid home fires.

Councilmember Kawakami: I have one more question, Chairman. Are we being put in a jurisdictional battle when we allow class "A" contractors to do electrical work in the upgrade of this code?

Mr. Haigh: I do not understand that question.

Councilmember Kawakami: In the upgrade of this code, are we not also allowing “A” contractors to do electrical work?

Mr. Haigh: There is no change in this code to current practice. The issue that was discussed—and it was one of the issues that was a little bit controversial, but we resolved it and came to agreement—was that electrical conduit work can be done by an “A” contractor. That is just a conduit and that is not inside the building. That is only site, which corresponds with all of your major electrical work that is done in the roadway is done by duct work, is done by the “A” contractor. Then the Kaua’i Island Utility Cooperative (KIUC) or whomever comes in and puts in the wires. It is the only the duct work that would be allowed to be done...that is determined by State law. That is not determined by county ordinance. Even if we put in our ordinance that they cannot do the work, State law governs. This is the whole Genetically Modified Organisms (GMO) issue that we realized. We cannot interfere with the State’s regulation of an industry. So when the State tells us that these contractors can do this work, that is who we issue the building permits. It is up to the State.

Councilmember Kawakami: But we can make it stricter?

Mr. Haigh: No, we cannot. It is the same with the GMO issue. We were not able to have stricter pesticide regulations than the State or Federal.

Councilmember Kawakami: Okay. Got it.

Mr. Haigh: In fact, we are looking at cleaning up all of our building codes. We are working with the Office of the County Attorney at this point to get rid of the “unconstitutional” code language that we have.

Councilmember Kawakami: Thank you, Chairman.

Committee Chair Kagawa: Council Chair Rapozo.

Council Chair Rapozo: I have another question, but Councilmember Kawakami’s question triggered another one. You mentioned the GMO issue. The State contractor’s code or regulation preempts the County that we cannot make it stricter?

Mr. Haigh: That is correct and that is the opinion that we got from the Office of the County Attorney, which the contractors are regulated by the State. The State contractor law tells us that we have to issue building permits to licensed contractors. But it is their law that determines which contractor can do what work.

Council Chair Rapozo: Right, and there is a specific preemption for counties to make it stricter?

Mr. Haigh: No, there is not.

Council Chair Rapozo:

Then we can?

Mr. Haigh: The Office of the County Attorney has given us an opinion that we cannot preempt the State contractor licensing law. Their law tells us that we cannot issue building permits, except to a licensed contractor or an owner-builder process. But determining which contractor does what work is determined by State law.

Council Chair Rapozo: Okay. The GMO issue was a unique situation because of the preemption. I am not sure how many other State laws fall into that category. There are a lot of changes in the code. The one that is concerning me is what Councilmember Kagawa talked about, which is the safety issue. You mentioned that there has been a death or so from an electrical fire. My question is how many fires...I am not talking about the nation...I really do not care about what is happening as it relates to our County...you are talking about different areas and different locations and everything is different—I am talking about Kaua'i; how many structure fires did we have that resulted in damage, injury, or death would have been prevented if this...what is it called?

Mr. Haigh: It is actually the AFCI protection that is protecting from house fires that is giving the major protection.

Council Chair Rapozo:

Okay.

Mr. Haigh:

We do not have those statistics. We rely on the Fire Department.

Council Chair Rapozo:

Okay.

Mr. Haigh:

Like I mentioned, I think it was about one (1) year ago when we were here, the Fire Department did discuss those issues.

Council Chair Rapozo: fires, but to my recollection...

Yes, I do not recall. I know there have been

Mr. Tabata:

As Doug mentioned earlier, we cannot require retrofits of homes. I am not speaking for the Fire Department, but we are not allowed to force people to retrofit, as Doug stated; this is only for new moving forward, or if you come in and you say you are doing a remodeling and you do substantial work, it would kick in the requirement then to upgrade.

Council Chair Rapozo:

Right, like the store that Councilmember Kawakami talks about—his plan would be to expand or do whatever is considered substantial, but may not affect the electrical systems or whatever he has in there. He would be required to follow this code.

Mr. Haigh:

If you do a remodel, only the area where you are remodeling has to follow the new code. The rest of the existing building stays as it is.

Council Chair Rapozo:

Understood, but if he wanted to add another refrigerator or another soda fountain machine, then he would have to...

Mr. Haigh: If he had to provide a new outlet wiring to energize that equipment, then he would need an electrical permit.

Council Chair Rapozo: Right, which would be?

Mr. Haigh: The work for that specific outlet would have to be done to the new code.

Council Chair Rapozo: Only for that outlet?

Mr. Haigh: Only for that outlet.

Council Chair Rapozo: So the rest of the stuff would remain?

Mr. Haigh: That is correct.

Council Chair Rapozo: Wow. Okay. Then I think I agree with Councilmember Kawakami that the safety issue is not really...it is safety going forward, but what is out there is out there. That is just the reality. I think I would agree that is fair, because I do not think we should go back and force people to invest thousands and thousands of dollars on a bill that is moving forward. So for the numbers, you said that the Fire Department would have that number. I do not recall the last time you folks were here, but I will send that across. Thank you.

Committee Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: I see that we have in the audience a private sector electrical contractor. I am wondering if we could have him step forward if he is willing.

Committee Chair Kagawa: I have another question for Doug.

Councilmember Yukimura: I think they could all stay.

Committee Chair Kagawa: Do you have another question for Doug? I have one for Doug right now.

Councilmember Yukimura: No, not right now.

Committee Chair Kagawa: So for the homeowner, if you compare the 2008 Electrical Code to the 2014 Electrical Code...I am talking about a residential homeowner...is there a greater chance of your appliance tripping with the GFCI requirements? I am talking about the situation where you are on a trip and your refrigerator trips, goes off, you come back home, and your food is all rotten—is there a greater chance of that occurring from adopting the 2014 Electrical Code versus the existing 2008 Electrical Code?

Mr. Haigh: The refrigerator is not required to have the GFCI protection.

Committee Chair Kagawa: What kitchen appliance is required?

Mr. Haigh: Well, it is the outlets that are in your kitchen that are required to have the GFCI. I believe the dishwasher also.

Committee Chair Kagawa: So the refrigerator is not affected?

Mr. Haigh: That is correct.

Committee Chair Kagawa: Okay. That makes me feel better. Thank you.

Mr. Haigh: Randy can correct me if I am wrong. He is more expert in the code than I am. My memory is that the refrigerator does not require a GFCI.

Committee Chair Kagawa: Okay. Councilmember Kawakami.

Councilmember Kawakami: To be clear, no matter whether we adopt this or not, it is coming?

Mr. Haigh: Excuse me?

Councilmember Kawakami: No matter if we adopt this or not, it is going to come down the pipeline?

Mr. Haigh: Correct. In two (2) years, 2019, we would be adopting the 2014 Electrical Code. We have no choice by State law.

Councilmember Kawakami: Okay.

Councilmember Yukimura: I have a follow-up.

Committee Chair Kagawa: Go ahead.

Councilmember Yukimura: Doug, in the two (2) years if we do not adopt it, then there will be houses built without this safety protection?

Mr. Haigh: That is correct.

Councilmember Yukimura: Okay. Thank you.

Committee Chair Kagawa: Thank you. Can you state your name?
Councilmember Yukimura has a question.

RANDALL NISHIMURA: For the record, Randall Nishimura. I represent Ron's Electric and the Electrical Contractors Association of Hawai'i.

Councilmember Yukimura: Thank you for being here. I presume you are here because of your interest in this.

Mr. Nishimura: Correct.

Councilmember Yukimura: Has the Electrical Contractors endorsed this code upgrade?

Mr. Nishimura: If I could make a statement?

Councilmember Yukimura: Sure.

Mr. Nishimura: As we see it, there are three (3) primary issues: one is the code itself; embedded in the code are safety issues, as well as cost considerations. You are not going to get one without the other. In terms of what the other counties will likely adopt relative to the code, they will probably adopt the code in much the same manner as presented by the Administration. A separate issue is a jurisdictional issue, which is not part of the code, but part of the proposed ordinance. The Contractors Association, and I regret IBEW is not here, and I will have to have them speak for themselves, but I believe both our association and the union are in a position to the bill as currently drafted. We disagree with the Department of Public Works' position that an "A" licensed contractor can do work on the site between the transformer and the building. We do not disagree that in the utility areas that they are allowed to do that. The recommended change that we would make is that should you decide to allow "A" licensed contractors to install conduits between the buildings and the transformer; that along with that, you also require that they have a "C-13" license, which is what is required by State law to perform electrical work. We consider conduit work as electrical work. That is basically our position on it.

Councilmember Yukimura: Thank you. Assuming that we want to address the issues raised by the Contractors Association and the union that it can be done through County bill amendments?

Mr. Nishimura: Yes.

Councilmember Yukimura: Okay. You said if a licensed contractor is allowed to install conduits between the transformer and building, then you feel that we should require a C-13 license?

Mr. Nishimura: Correct, in addition to the "A" license.

Councilmember Yukimura: Can we ask Doug to stay there, because I think we are really resolving this?

Committee Chair Kagawa: Maybe you are resolving this. This is going to be deferred. You have a vote, but it will be one (1) and you are free to do your amendments right now if you want to.

Councilmember Yukimura: I am just asking permission to have the discussion.

Committee Chair Kagawa: Go ahead.

Councilmember Yukimura: Is that some new information that Doug has given you? Does that address or begin to address the issue?

Mr. Nishimura: We feel that the amendments that were inserted subsequent to our meetings do not properly address it.

Councilmember Yukimura: Do you have some language that you think would address it?

Mr. Nishimura: We would eliminate any of the changes to the current ordinance, relative to Section 13-2.3, Subsection (A).

Councilmember Yukimura: Okay, so you would remove all of that?

Mr. Nishimura: Any of the changes.

Councilmember Yukimura: So underline and omissions?

Mr. Nishimura: Any of the bracketed and underlined language.

Councilmember Yukimura: Okay. If that were done then you would...

Mr. Nishimura: Then we could support the ordinance as presented.

Councilmember Yukimura: Would this be in contradiction to the State law?

Mr. Nishimura: I think potentially us and the Department of Public Works would disagree on that issue, potentially. We do not think that the current language...

Councilmember Yukimura: Contradicts State law?

Mr. Nishimura: Contradicts State law as it is. If it does not, we ask why they want to make the change in the language.

Council Chair Rapozo: Committee Chair, I am just saying that this is bad. Asking the questions...Doug can come up later, but I think as this point, I think we have heard...I do not know if this is the avenue to be the facilitator between the Department of Public Works and the Contractors Association. I think that is something they have to do outside and come to us...

Councilmember Yukimura: Chair, I am just trying to understand for my purposes, as somebody who is making a decision, what the options are and what the concerns are.

Committee Chair Kagawa: You heard my recommendation as the Committee Chair.

Councilmember Yukimura: I did, but I still want to understand this and I think I have the right to.

Committee Chair Kagawa: I understand. You have the right. I have a suggestion for you though...

Councilmember Yukimura: Go ahead.

Committee Chair Kagawa: Perhaps you would have Mr. Nishimura work with our Legal Analyst Christiane, who is expert on this Bill and who is handling it for us, and she can perhaps have those amendments at a later date. My plan is to defer it until August 2nd. Hopefully at that time, the City & County of Honolulu will be moving forward as well and we can all have a bill that does not contradict what other counties in Hawai'i have.

Councilmember Yukimura: Thank you for your suggestion.

Committee Chair Kagawa: If you want to hammer it out here and be the first on Kaua'i, I do not think you have the votes, but you can try.

Councilmember Yukimura: I am not trying to do anything except to understand the issues? Let us see...where we ended up with the last dialogue was that you think that it might contradict State law, but your associations do not believe it does?

Mr. Nishimura: As the current ordinance is worded, we do not believe it contradicts State law.

Councilmember Yukimura: Okay.

Mr. Nishimura: There has been language added in there, bracketed and underlined language, that could permit unlicensed personnel to perform work and this is our primary concern.

Councilmember Yukimura: You believe that the proposed amendments could permit unlicensed contractors to do the work?

Mr. Nishimura: Potentially, yes.

Councilmember Yukimura: How do you see that happening?

Mr. Nishimura: In the current language, they would allow work...would not be required for Federal or State agency, where they choose not to, which is their right. We cannot prevent them from doing that. The County cannot.

Councilmember Yukimura: From Federal and State agencies?

Mr. Nishimura: Yes. They were going to take out "the permit is not required for installations and use of electricity regulated by the Public Utilities Commission (PUC) of the State of Hawai'i." This is the most current language that I have seen and what that implies is that if there is work in the offices of KIUC, that an electrical permit would not be required. We believe that that does not constitute utility-type work, but it is, in fact, electrical work that is governed by the NEC.

Councilmember Yukimura: Governed by the what?

Mr. Nishimura: The electrical code. There are two (2) codes that electricians follow: one is the National Electrical Codes, and there is another code that the utilities follow, which handles all of the work up to the primary site of transformers. That is where the break is and the voltages and all of that is called out in the two (2) respective codes. Based on what type of work it is, it may or may not require an electrical license.

Councilmember Yukimura: Okay. So other than this section, the contractors support what is in this proposed bill?

Mr. Nishimura: Yes.

Councilmember Yukimura: So you agree that there are safety issues that are addressed?

Mr. Nishimura: There are safety issues that are included in the proposed code, the 2014 Electrical Code, and there are also costs with that. Full disclosure, part of the national board that proposes these changes to the code are composed of people in the insurance industry, and they have their interests under consideration. I am not going to say "right" or "wrong." The code has been adopted at the State-level, and the costs are significant. I will not disagree with Councilmember Kagawa on that. It is a matter whether the safety justifies the additional costs.

Councilmember Yukimura: So Doug has said that it is three hundred dollars (\$300) to four hundred dollars (\$400). Is that your understanding?

Mr. Nishimura: It really depends on the type of residence. Right now, this is primarily for residences. It revolves around not just the...the AFCI is an arc volt protector, which protects the structure from inadvertent fires, which is different from the personnel protection that everybody is familiar with for GFCI. I would agree that if you put ground-fault on a circuit that has water, if there is any kind of leakage to the appliance, it will trip the circuit.

Councilmember Yukimura: That is why dishwasher are covered?

Mr. Nishimura: No, dishwashers are not exempt. That is one of the misnomers.

Councilmember Yukimura: They are not what?

Mr. Nishimura: They are not exempt from the GFCI requirement. We have had to have residents change those because of that. In order to be protective, the devices have to trip at a very low level. It is designed that way. It does cause some nuisance tripping. When you consider that dishwashers and washing machines run up to one thousand two hundred dollars (\$1,200) to one thousand five hundred dollars (\$1,500), it can be a substantial cost, not just for the installation of the receptacle, but also for the appliance, if it should fail.

Councilmember Yukimura: When you say it “fails,” you do not have to just go and reset the...

Mr. Nishimura: No. What happens is it keeps tripping, as long as there is a leak.

Councilmember Yukimura: Are you saying that the appliances get damaged?

Mr. Nishimura: No. What happens is that the circuit breaker of the GFCI or the arc-fault device will sense a leak beyond the allowable limit and it will trip the device. Despite the fact that you can reset it, if that leak is still there, it will trip again and may prevent you from resetting the device.

Councilmember Yukimura: That is what you want to find though. You want to find the leak, right?

Mr. Nishimura: It is designed for that, but there are some inherent differences in the way things are manufactured, which have caused substantial problems for more commercial outlets than residences.

Councilmember Yukimura: Are you saying that you do not feel that the safety justifies the cost?

Mr. Nishimura: I am not making any comment as to whether the safety and cost issue are justified. We are not making these requirements.

Councilmember Yukimura: But you are supporting the safety part of it.

Mr. Nishimura: We will support it because we feel that there are other changes within the codes...the code is about that thick...a little bit thicker than a Bible, and there are codes that are attendant to solar installations. Arc-fault is one part of it...clearances in front of equipment that creates safety issues for maintenance personnel. So it does not just focus on residences. It attends to all electrical installations, including such things as gas stations, airports, and we do not have them here, but green elevators, some mining equipment, and industrial equipment. The electrical contractors and the union support the code adoption to bring us up to speed. That is the primary reason we support it. Your considerations are your considerations and we do not disagree with some of your concerns.

Councilmember Yukimura: So if we wanted to update it now, we could eliminate the parts that are not as clear in terms of a consensus, and pass it, and get the benefit of the updating. Correct?

Mr. Nishimura: That would be the prerogative of the body.

Councilmember Yukimura: Yes, but it is possible and it is not something that you would oppose?

Mr. Nishimura: That is correct.

Councilmember Yukimura: And it would get us the benefits that do exist in the new codes?

Mr. Nishimura: Yes.

Councilmember Yukimura: Okay. Thank you.

Committee Chair Kagawa: Council Chair.

Council Chair Rapozo: Thank you for agreeing to come up. I know that was not planned. So you said there were three (3) concerns: safety issue versus the costs, and that was obviously a major concern...that is why I asked the question about the number of fires that were actually caused by this specific problem that this would fix. Then you said that the other counties, more than likely at some point, will adopt?

Mr. Nishimura: A very close adoption to the code with their particular revisions.

Council Chair Rapozo: Okay. Then of course, the jurisdictional issue, and I think you discussed the proposed language, possibly may conflict with some of the State law? I am kind of confused because you talked about the conduit between certain structures that this code would basically violate the State law, in the proposed amendment where it would allow an "A" license contractor to install certain conduits between a structure that you believe currently requires a C-13?

Mr. Nishimura: That is correct.

Council Chair Rapozo: Okay. I guess I need to follow-up on that because if we are preempted from changing State law then obviously the code cannot change that, but we will see. The other big question I have is I thought I heard you say when you came up that the Contractors Association and the IBEW oppose the form that it is in.

Mr. Nishimura: We are opposed to the ordinance in its current form.

Council Chair Rapozo: What we are seeing today?

Mr. Nishimura: Yes. If this is what I am looking at and I do not know what draft this is...

Council Chair Rapozo: Well, what you are looking at...this is important because earlier we were told that both of those organizations supported it.

Mr. Nishimura: Excuse me, the Contractors Association that I believe Doug was referring to was the Contractors Association of Kaua'i. Is that correct, Doug?

Council Chair Rapozo: What?

Mr. Nishimura: The Contractors Association of Kaua'i.

Council Chair Rapozo: Okay, who are you talking about?

Mr. Nishimura: Electrical Contractors of Hawai'i.

Council Chair Rapozo: But the IBEW, as far as you know...

Mr. Nishimura: In its current form as we understand it, would be opposed to it, but we would need confirmation from them. I do not represent them.

Council Chair Rapozo: When Doug comes back, I will ask him again. I know he said that we had support from the IBEW. That is all I have. Thank you.

Committee Chair Kagawa: Councilmember Chock.

Councilmember Chock: Thank you, Randy. So the whole conduit to transformer work, I just wanted to confirm if that is a safety or cost issue for you folks?

Mr. Nishimura: It is more of a jurisdictional issue.

Councilmember Chock: Okay. Thank you.

Committee Chair Kagawa: Councilmember Kaneshiro.

Councilmember Kaneshiro: Have you seen that amendment that was brought to you prior to this meeting?

Mr. Nishimura: The March 16th one I have not seen.

Councilmember Kaneshiro: Thanks. I have not seen it either.

Committee Chair Kagawa: Randy, just a question about reality. Right now, we have the 2008 Electrical Code on the books. The 2014 Electrical Code is being adopted as we speak by the State as soon as the Governor signs it. As a private contractor for commercial and businesses, can you go out now with the 2008 Electrical Code and go to your customers and say, "Hey, this will cost you a little bit more, but it will be, in our opinion, safer. If you have the money, this is perhaps a better route for you as you build your structure or remodel." Can you do that right now?

Mr. Nishimura: Yes, we can.

Committee Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: So your objection to the...it is not an ordinance yet...so the Bill...is the exception language in the beginning and the rest is okay?

Mr. Nishimura: That is correct.

Councilmember Yukimura: The exception is mainly a jurisdictional issue rather than a safety or cost issue.

Mr. Nishimura: Yes, it is.

Councilmember Yukimura: Okay. If we removed this, then it would be okay to move ahead?

Mr. Nishimura: When you say remove, you would remove all...

Councilmember Yukimura: Okay, remove the amendments to the exception.

Mr. Nishimura: Yes.

Councilmember Yukimura: That is the main source of concern.

Mr. Nishimura: Yes.

Councilmember Yukimura: Okay. Thank you very much.

Committee Chair Kagawa: With that, we have people waiting for other items and I can count here. In order to save time, I will ask for the motion to defer right now.

Councilmember Yukimura: Chair?

Committee Chair Kagawa: Yes?

Councilmember Yukimura: Could we just have Doug's response? I think Council Chair wanted to get confirmation about the IBEW.

Committee Chair Kagawa: Okay. We will have questions for Doug, and then I will be asking for the motion to defer.

Councilmember Yukimura: You also need public testimony.

Committee Chair Kagawa: Pardon me?

Councilmember Yukimura: Public testimony.

Committee Chair Kagawa: Yes, we can have public testimony. Doug, we have questions for you. For whoever is planning to testify, please sign up.
Councilmember Yukimura.

Councilmember Yukimura: If we removed the part that the Hawai'i Electrical Contractors Association are concerned about, assuming everything else is okay, would that be a problem with the Administration? Are there aspects that you think we need to think about in doing so?

Mr. Haigh: Doug Haigh, Department of Public Works, Buildings Division. I forgot to introduce myself before. The March 16th floor amendment that we proposed, that I thought was part of your package and was part of the discussion, addressed the issues that Randy brought up, and it was over one (1) year ago. I am not surprised that people may not remember the discussions that went in at that time, but my understanding is that this floor amendment had approval from the people who were concerned on this issue. Basically, we are addressing their issue with this floor amendment.

Committee Chair Kagawa: We can fix it all up in August. Council Chair Rapozo.

Council Chair Rapozo: I was just curious about the IBEW, if that was something that you had recently about the support.

Mr. Haigh: I have an E-mail that states that this floor amendment addresses the issue and is acceptable.

Council Chair Rapozo: So they do, in fact, support the entire adoption?

Mr. Haigh: That is correct. That is my understanding in reading of the E-mail that I received over one (1) year ago in March 2016. I did recently review that this week. I looked at it again and confirmed it. I actually forwarded that E-mail to Council Services with the floor amendment saying that this is the floor amendment that they are supporting.

Council Chair Rapozo: Okay. Thank you.

Committee Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: As far as our own understanding, I am confirming with our staff and it appears that this amendment is presently part of the bill and it was part of the bill before on first reading. It should still be a "Draft 1," right? This is the version that was passed out by our staff.

Mr. Haigh: That floor amendment has not been incorporated into that. It is still a separate document as a floor amendment.

Councilmember Yukimura: I am sorry, but this is not showing it as a floor amendment.

Mr. Haigh: Right, there is a separate document that we provided to Council Services of the proposed floor amendment.

Councilmember Yukimura: Where is that floor amendment? Where is the proposed amendment? Can you show it to us, please? I do not understand what that is. Is that what you are proposing? Does it change...do you have a copy of Bill No. 2613?

Mr. Haigh: Yes.

Councilmember Yukimura: Okay.

Mr. Haigh: It changes the exception and takes out everything, but we leave in "work performed by any federal or state agency, except where permits are specifically requested by said agency." So it takes out that whole utility issue from the language.

Councilmember Yukimura: So you are actually proposing to remove the jurisdictional issue?

Mr. Haigh: Yes.

Councilmember Yukimura: We need to have Mr. Nishimura come back to explain what his position is on that.

Mr. Haigh: It might be appropriate to give him time to remove it.

Committee Chair Kagawa: If I may, I think we are prolonging a decision...discussing this floor amendment will not change the fact that the City & County has not adopted it, Maui County has not adopted it, and Hawai'i County has not adopted it, and I think that is the reason why we are asking for a deferral. We are going to wait for the other counties, primarily at least the City & County, before considering approval of this Bill and adoption of this code. I think these amendments that we are talking about are not going to change the majority of the decision. Perhaps, it would be better, in my opinion, if we get all of our information, have some really good amendments come August, hopefully, when the City & County has already adopted it. I think we are getting close to that point, so my hope is that we can solve this whole riddle, rather than change things now and in August we are going to change things again. I think it is going to be a redundant waste of time for the staff. If you want to go that route, we can.

Councilmember Yukimura: Can we give a copy to Mr. Nishimura?

Councilmember Kawakami: Chairman?

Committee Chair Kagawa: Councilmember Kawakami.

Councilmember Kawakami: I am just concerned about the matter in how we are operating. I am not sure we can discuss the floor amendment because it has not been formally introduced, so it is not on the table for discussion.

Councilmember Yukimura: I might want to introduce it.

Councilmember Kawakami: Okay.

Committee Chair Kagawa: I guess you are going to go that route.

Council Chair Rapozo: Chair?

Committee Chair Kagawa: Council Chair Rapozo.

Council Chair Rapozo: I have a suggestion. We have two (2) years to adopt this thing. You are currently proposing a deferral to August.

Committee Chair Kagawa: Yes.

Council Chair Rapozo: Which is fine, but that code is large—we are tweaking with one part of that contract without any knowledge if it is going to affect another part of the code. Why is the rush for today? I suggest that the Contractors Association of Kaua'i or whoever else is the stakeholders, along with our County folks, get together, discuss this thing, hammer it out, and then come to us with some suggested amendments. I do not have the time today to go and make sure that this amendment does not impact another section of the code. I do not want to go through that headache of passing something today and next week getting a letter from the County Attorney saying, "Hey, what you folks did last week affects Section "x," "y," "z" of the code, four hundred (400) pages later. That is very, very probable when you are dealing with a code that big. This is not the venue. The venue is across the street at the Administration, working with these folks, and come together. They may not agree on everything, but at the end of the day, come up with the best product, come to us, and then we can have that discussion.

Committee Chair Kagawa: I brought up the real-life scenario of the 7-11 in Lāwa'i that voluntarily implemented the 2014 Electrical Code and came up with significant problems. I do not know what the rush is. We have been exposed to problems already. I am not inclined to vote for this thing right now without getting more detailed evidence of these voluntary people that are implementing as-is and are coming up with all kinds of problems that are unknown to our Buildings Division Chief. It boggles my mind that he is not aware of that significant problem. Councilmember Brun.

Councilmember Brun: I think the Chair said it, and if we can call up Mauna Kea, because we are trying to fool around with amending a State law, which is going to be adopted by the State—can we call Mauna Kea and get his input on this or let us just defer it? We are going round and round for nothing over here.

Committee Chair Kagawa: Mauna Kea.

MAUNA KEA TRASK, County Attorney: For the record, Mauna Kea Trask, County Attorney. At this point, we would agree that both Council Chair's and Committee Chair's proposals are necessary. The last time we opined on this issue was January 19, 2016; that is what Mr. Haigh referred to earlier on the record. Irrespective of anyone's well-meaning intent, this is not going to be addressed today. The Hawai'i Supreme Court case on this issue, specifically, as it applies to the electrical code, there are substantial issues to address—in Hawai'i Revised Statutes (HRS) Chapter 444, which relates to contractors generally; 440E, which is electricians and plumbers. It just requires a complex analysis that is not easy, so I do suggest that we defer. We are willing to work with any and everybody on this issue. This will not be productive today, we do not think.

Committee Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: Do you have a copy of this amendment?

Mr. Trask: We have it in our records. We opined on it.

Councilmember Yukimura: Do you have what was just passed out today?

Mr. Trask: Absolutely not.

Councilmember Yukimura: Will you please hand him a copy?

Mr. Trask: I will not be able to provide you any analysis today.

Councilmember Yukimura: Well, please take a look at it.

Council Chair Rapozo: Chair, real quick, I just have a question about the County Attorney's opinion.

Committee Chair Kagawa: Let us see if he has a response to Councilmember Yukimura.

Council Chair Rapozo: Again, that amendment has not been introduced, so I would suggest that we do not discuss it. My question is about the County Attorney's opinion that your office provided to Mr. Haigh's office...I am assuming that is confidential, but is there any way his office can release the confidentiality and provide the Council with a copy of that?

Mr. Trask: He has discussed it already, so we would say that it has likely been waived at this point.

Council Chair Rapozo: Okay.

Mr. Trask: If not, we can...

Council Chair Rapozo: Can we do whatever needs to be done so that we can legally get a copy?

Mr. Trask: Sure.

Council Chair Rapozo: Mr. Haigh, do you have a problem with that?

Mr. Haigh: Absolutely not.

Council Chair Rapozo: Thank you.

Committee Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: My question about this is it seems to remove the jurisdictional issue and therefore not create a need to get the County Attorney's opinion.

Mr. Trask: I cannot address that right now.

Councilmember Yukimura: I heard Mr. Nishimura say that Federal or State agencies can determine which code they are going to operate under. That would seem to obviate the...

Mr. Trask: Let me just state this very...I will not be able to give you a legal opinion on this floor amendment drafted today at this time. I know Mr. Nishimura very well and I respect his practice in electrician. To my knowledge, he is not a licensed attorney. As I would not advise you to allow me to install any of your electrical appliances, I do not think he would advise you to follow any legal advice he may have inadvertently given.

Committee Chair Kagawa: With that, we will open it up for public testimony. Do we have anyone registered to speak at this time?

Ms. Yamauchi: Yes, Chair. You have two (2) speakers. The first speaker is Glenn Mickens, followed by Matt Bernabe.

Committee Chair Kagawa: Mr. Mickens.

GLENN MICKENS: For the record, Glenn Mickens. Good morning Members. I have heard some very good arguments on both sides of this issue, but the confusing part is that this Bill can only be implemented to new buildings and cannot be mandated to older structures if, in fact, this Bill will correct safety measures that cause past fires and bodily harm. We correct the problem going forward definitely to prevent past issues. The fact that no other county has adopted this ordinance is a concern, obviously, to all of you. Also, hearing that Mr. Nishimura is against parts of it, which may be I have not seen the amendment yet, but maybe it is corrected in there, but as Council Chair asked, it would be good to know how many fires and casualties have been caused in the past to justify the added costs for this Bill that people will have to pay to buy a new home. I believe that the deferral Councilmember Kagawa is asking for is a good one, until the details are addressed more. Of course, we can always go back and say, after the Hurricane in 1988, I think straps were mandated to put on your homes. After Hurricane 'Iniki, I went to places, like the Nishida's house and saw where these straps were blown, right off with the rest of the roof. It did really nothing to correct it. Again, I do not know how much this particular bill will do that, but we are all concerned about the safety of the public, the people. Thank you.

Committee Chair Kagawa: Thank you. Next speaker.

MATT BERNABE: Good morning. Matt Bernabe, for the record. I support the deferral as well. To be honest, I am not as caught up to speed on this issue. However, I want to use this opportunity, because the dialogue allows me to get some information out that I have observed in our own County. I own a home and I have an easement and I have a pole and the electricians from KIUC come and they deal with the pole and I do not have to touch anything and it goes to my house. I trim trees in Moloa'a where the County did not give them water and they also did not give them electricity that goes beyond a certain point. So they have a meter right off the side of the road and they are responsible for the rest of the wires. Just yesterday ironically, I am responsible for clearing the trees that go along the line that from the meter that is right adjacent to the road goes in many yards, meters, however you want to measure it, because the house is far away from the road. So

there is a relay pole that they are responsible for. They have to do it. Even when they have hired contractors/electricians, which they do not always, because I do not think they need to at this point, I have never come and inspect the work or look at it...

Council Chair Rapozo: Hold on. Excuse me, if you folks want to talk, then go outside. I do not know if you know where you are at. You are at a Council Meeting and a gentleman is testifying and you folks are just going to town. If you have to say something, just take it outside. Thank you.

Mr. Bernabe: I think they should hear this, because like I am pointing out, I hear talk about fires and people doing things and I recently had to clear some trees because we put an underground electric line, which they did hire a contractor, but for some of the other stuff, they do not, like erecting the pole. The contractor did not do that. We had to do that. I hear this conversation and to be honest, I was not coming here to hear it, but as I listened to it, it provoked me to be more interested and follow-up on this. I just wanted to put my observations out there that we have some void areas. I do not know what happened in Moloa'a with services and why they had to get their own water and deal with that, but I know it is kind of complicated out there. That is what is occurring. I just wanted to put that out there since this was the agenda item. Thank you.

Committee Chair Kagawa: Thank you, Matt. Further discussion? Members, final discussion before we ask for the deferral? Councilmember Kaneshiro.

Councilmember Kaneshiro: We have been saying it at almost every one of these meetings that before it comes here, it should get vetted between the Administration, IBEW, and the electrical union that Mr. Nishimura represents, and then it should come here. Obviously, we saw what happens when we try to resolve it here at a whim. It does not work. All I ask is that Mr. Nishimura had not seen the amendment. He has been at these meetings. We know he has been involved in it, so if the Administration can just get together with these folks, go through this information, and come here with something, it is a lot more clear on what everybody can agree on or cannot agree on. They may not agree on everything and they can come here and say, "We have had these meetings. This is what we are able to agree on. This is what we are not able to agree on." Then we make the decision from there. It is just chaotic when it is here and we are trying to figure out what to do. That is my only request.

Committee Chair Kagawa: Further discussion? Councilmember Yukimura.

Councilmember Yukimura: I think there is actually a way to find consensus and I believe that this most recent amendment might do it, but I think Mr. Nishimura does need to go back and get that input. I think we are close.

Committee Chair Kagawa: Council Chair Rapozo.

Council Chair Rapozo: It is not just Mr. Nishimura and the County; it is IBEW, the electricians, the contractors, and all of the stakeholders. That is what I was trying to say earlier. That is why this is not the place to do this. It

involves a whole lot more people and I really appreciate Mr. Nishimura's point of view and I trust what he has to say, but it is not just between electricians and the County, because there are other entities involved with this code. Again, Councilmember Kaneshiro is right, this is not the place. If the last time they had any discussion with the IBEW was 2016...I am not sure when that last E-mail...I did not see the E-mail, but that is just one other entity. There are so many more. Again, I think we need to make sure...consensus is a good thing, but we are not going to sit here today and pass something because Randy and Doug is here, so as long as we appease both of them, we have a good bill. That is not how we do things. You still have a whole bunch of other stakeholders that are not here today. We were probably told that this was going to be deferred, because that is what was marked in my agenda, so I am assuming that someone may have told someone that this matter was going to be deferred, so why show up? It is not just two (2) individuals, it is a lot more. I would suggest that the County gets to work and getting those stakeholders together and coming up with something...not everyone is going to be happy and not everyone is going to agree on everything, but at some point, we have to make a decision. I would agree that it should be done sooner than later. Thank you.

Committee Chair Kagawa: Councilmember Chock.

Councilmember Chock: I would just add that the other stakeholders...the community as well...we opened up the discussion with costs as a real issue and we should be taking that into consideration if costs are going to be affected with this. We need to be looking at it. The priority for me is safety first. Jurisdiction is important, and then costs. If we are overstepping our bounds on this, then I think we need to get that kind of work, as Councilmember Kaneshiro said, out of the way before we even get to this table. Thank you.

Councilmember Yukimura: I do really appreciate Mr. Nishimura's input and it is always pretty straightforward, honest, and reliable. That is why I asked that he come forward to speak. I think there has been a lot of consultation with the other groups and I hope that there was not an assurance of a deferral because that would suggest that there was a violation of the Sunshine Law. I think we are getting close and I am hopeful that we will come to a really good resolution so that we can pass a bill that will update and do the good things that are here that will get to that. I want to say one thing about cost is that it is really a matter, as Mr. Nishimura said, of weighing cost and benefit of safety because two (2) weeks after the hurricane, we introduced code amendments for hurricane strapping and that kind of thing after Hurricane 'Iniki. It was going to increase the cost of construction by one percent (1%), but the prevention of disaster was huge, so it was well-worth the cost. Those are the things that we have to look at as we make these decisions.

Committee Chair Kagawa: Councilmember Brun.

Councilmember Brun: Thank you, Chair. I know we are talking about deferring until August 2nd. For me, I do not think that is even enough time. It has already been one (1) year since this and they did not even talk to IBEW and get everybody's input. Do we think we can get it done by August 2nd? I do not know why we are trying to rush this. I just feel we should defer them and let us just do it for another year until we can get everything in place because it does not look like

anything got in place. An amendment came on the floor today and nobody ever saw it. I do not think August 2nd is enough and I would rather us do it for longer than that, at least six (6) months more. Thank you.

Committee Chair Kagawa: Councilmember Yukimura.

Councilmember Yukimura: This Bill was introduced in January 2016, so it has already been deferred for one (1) year. I think we are very, very close and it is not true that the IBEW has not been consulted with. I think they have, but I do not know if they have been consulted with this last amendment, but I think there have been ongoing negotiations and a variety of efforts to find common ground. I think we are very close and I would hope that we can just keep the deferral to August 2nd.

Committee Chair Kagawa: Thank you. Further discussion? I think getting the unions' input, as well as the Contractors Association of Kaua'i is great. One of the problems in talking to some of those members is that when Don Lutao was there, they would hold task force meetings and I hope that we can revive some of those so we have a cohesive opinion by them. We are getting individual hearsay of whether they support or not and I think is clear if we have a task force meeting. They can all get together and they can work on what is best and what solution. It is also important that the Council realizes that we do represent the homeowners as laypeople, elected officials. We represent the businesses and the homeowners that will bear the cost of our decisions. It is difficult to pull one (1) member from the residential community or commercial community into those meetings and have a clear voice of what the broader community feels. I think that is our job. When you are talking about these code upgrades, it is not a small price. You are talking about going from one switch, which costs five dollar (\$5) right now, under the 2008 Electrical Code, and switching to a GFCI switch, which costs upwards of fifty dollars (\$50), ten (10) times the cost for one (1) plug now, one (1) switch. Those switches are safer, but they trip a lot more than other things. So you may have, as explained by Mr. Nishimura, you might have items that draw power from a motor that may be tripping, but will no longer be useful for you, so you have to get another hairdryer or another dishwasher or another washer or dryer, because these new 2014 codes are more safe and trips more often. We need take our time and not rush into these decisions. If you choose, as a homeowner or as a business, to go with the safer route, you say, "Well, if my appliance trips, I will get an appliance that conforms with the plug." You have the choice to do it right now under the 2008. You can follow the 2014. There is nothing that prevents you from doing it. Contractors and electricians can recommend it to their customers. We are not hampering safety. If you choose more safety, you can do it right now. There is nothing that prevents you. Before we become the first island to pull the trigger and be the first one to adopt the 2014 Electrical Code, let us make sure that we have the best possible bill before us and make sure that when we adopt it that we thought of the community first. We considered the cost. We considered the efficiencies. Just make sure that we take our time and do it right. I agree that taking our time is the best route in approving this Bill, as well as the Plumbing Code. It is not like Doug Haigh had stated; it is not like buying a computer that is 2016 compared to a computer that is 2008. It is not. It is not practical in a lot of areas. It is overly safe. The insurance companies sit on the boards to develop these recommendations, but again, we have to weigh it. I think it is our job, as a Council, we are in charge of adopting it for the betterment of our community and for the betterment of our

community means weighing costs, as well as weighing safety benefits. I am hopeful that we can get the votes to defer to August 2nd. Hopefully it is enough time to see what the City & County has done with this Bill.

Councilmember Kaneshiro moved to defer Bill No. 2613 to the August 2, 2017 Committee Meeting, seconded by Councilmember Yukimura, and unanimously carried.

There being no further business, the meeting was adjourned at 9:51 a.m.

Respectfully submitted,



Codie K. Yamauchi
Council Services Assistant I

APPROVED at the Committee Meeting held on May 10, 2017:



ROSS KAGAWA
Chair, PWPR Committee